



Attorney Docket
No. B6087

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of)
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TAGER, JEAN)
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Serial No.: 09/682,635)
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Group Art Unit 3676

Filed: October 1, 2001)
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Examiner: Williams, Mark A.

For: "PIN-LESS LOCKS FOR
SLIDING MEMBERS")
)
)

Commissioner for Patents
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CERTIFICATE OF MAILING (37 CFR 1.8a)	
I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail and in an envelope addressed to: Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450	
Date: <u>July 5, 2005</u>	<u>Daniel V. Thompson</u>
	(Printed name of person mailing paper)
	(Signature of person mailing paper)

Dear Sir:

BRIEF ON APPEAL UNDER 37 C.F.R. SECTION 41.37

This brief is filed in furtherance of the Notice of Appeal filed in this application on March 4, 2005, and received by the PTO on March 8, 2005. With a two month extension, for which a Form PTO/SB/22 is submitted herewith, the due date for this brief is July 8, 2005.

I. REAL PARTY IN INTEREST

Jean M. Tager is the real party in interest.

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II. RELATED APPEALS AND INTERFERENCES

There are no pending related appeals or interferences.

III. STATUS OF THE CLAIMS - RULE 41.37(c)(iii)

Claims 1, 12, 14, 16, 18 and 19 have been finally rejected. Claims 2-11, 13, 15 and 17 were canceled. The rejection of Claims 1, 12, 14, 16, 18 and 19 is appealed. The requirement for amended Drawings is also appealed.

IV. STATUS OF AMENDMENTS - RULE 41.37(c)(iv)

No Amendment after Final Rejection was filed.

V. SUMMARY OF CLAIMED SUBJECT MATTER RULE 41.37(c)(v)

The present invention generally relates to locks for overlapping parallel sliding members, such as sliding glass doors and windows, and more particularly to a hinge member having two leaf members, with the leaf members being pivotable between locked and unlocked positions.

U.S. Patent No. 3873693 owned by the Applicant of the present application discloses a prior lock similar to the present invention for overlapping parallel sliding members, and the disclosure of said patent is incorporated herein as if fully set forth herein.

A significant drawback of the prior lock was its complex and expensive, yet non-intuitive and delicate, detent pin. The necessity of withdrawing the spring loaded pin prior to pivoting the leaves was not immediately apparent. Persons unfamiliar with the operation of the prior lock would typically force the lock open without first withdrawing the pin, thereby breaking the pin.

Thus, an object of this invention is to provide a simple inconspicuous element attached to one member of overlapping parallel sliding members, which may be positioned to permit free sliding of the overlapping members with respect to each other, and positioned in another position to obstruct or prevent movement of said overlapping sliding members with respect to each other.

This invention obtains this object by providing a hinge type member having one leaf thereof permanently secured to one of overlapping sliding members, and the second leaf thereof pivotal between locked and unlocked positions to permit sliding of said overlapping members in the unlocked position; and, when turned a 90 degree angle to the locked position, to abut the face of one of said overlapping members to prevent displacement there between; and, a resistance

mechanism for lightly-resisting pivoting of said pivotal leaf member against displacement or rotation, the resistance mechanism being indestructible in normal operation without pre-manipulation of any portion of the lock prior to pivoting movement.

The preferred resistance mechanism is a single-lobed cam and deformable follower, with two flattened portions between the lobe corresponding to the locked and unlocked positions.

VI. GROUNDS OF REJECTION TO BE REVIEWED - RULE 41.37(c)(vi)

Claims 1, 12, 14 and 16 were rejected under 35 U.S.C. Section 102 as being anticipated by U.S. Patent 6,119,019 to Phelps. Claims 18 and 19 was rejected under 35 U.S.C. Section 103(a) as being unpatentable over U.S. Patent 6,119,019 to Phelps.

VII. ARGUMENT - RULE 41.37(c)(vii)

A. Claims 1, 12, 14 and 16 are patentable over Phelps

1. Claim 1 is patentable over Phelps

Claim 1 recites the lock in combination with two overlapping sliding members (such as a door or window), with one of the leaves fixed to one of the sliding members. The other leaf, when turned about 90 degrees to the locked position, abuts the other sliding member and thereby locks the sliding members. Phelps discloses a cell phone cover pivoted to a cell phone, neither of which are attached to anything nor locks anything.

Moreover, Claim 1 recites a cam having at least one flattened lobe. The Phelps structure corresponding to a cam (element 14) is egg-shaped, with no flattened lobe. The flattened lobe of Applicant's cam enables a positive indication of locking, as well as stability in the locked state resistant to accidental or intentional movement by vibration or shaking. The egg-shaped cam of Phelps does not provide this structure or function.

2. Claim 12 is patentable over Phelps

Claim 12 is dependent on Claim 1, and patentable for the same reasons argued for Claim 1.

In addition, Claim 12 recites the cam and follower being located in a central location abutting inner longitudinal edges of the leaves. Phelps has two cams and followers located at the extreme outer corners of the cell phone cover and cell phone, respectively.

3. Claim 14 is patentable over Phelps

Claim 14 is dependent on Claim 12, and patentable for the same reasons argued for Claim 12.

In addition, Claim 14 recites the follower extending from a raised central portion of the pivotal leaf. Phelps' followers are located at the extreme corners of the cell phone.

4. Claim 16 is patentable over Phelps

Claim 16 is dependent on Claim 1, and patentable for the same reasons argued for Claim 1.

In addition, Claim 16 recites the pivotal leaf having an outer longitudinal edge sloped outwardly away from a surface of the sliding member to which the lock is attached. Phelps, as argued above in support of Claim 1, does not show the two leaf-like elements attached to anything. Moreover, the outer longitudinal edge of Phelps' cell phone cover is rounded, not sloped outwardly as claimed in Claim 16.

B. Claim 18 is patentable over Phelps

Claim 18 includes all the elements of Claims 1, 12, 14, and 16 which are lacking in Phelps as argued above. These include: (1) no sliding members, (2) no cam and follower in a central location, (3) no follower in a raised central portion of the pivotal leaf, and (4) no outwardly sloping longitudinal edge. The lack of these elements is not suggested or made obvious by any reference, and none was cited by the Examiner.

C. Claim 19 is patentable over Phelps

Claim 19 includes all the elements of Claims 1, 12, 14, and 16 which are lacking in Phelps as argued above. These include: (1) no sliding members, (2) no cam and follower in a central location, (3) no follower in a raised central portion of the pivotal leaf, and (4) no outwardly sloping longitudinal edge. The lack of these elements is not suggested or made obvious by any reference, and none was cited by the Examiner.

In addition, Claim 19 recites the cam having two flattened lobes, in contrast to Claim 18's "at least one" flattened lobe. No reference even remotely suggests the provision of two flattened lobes.

D. The requirement of amended Drawings was erroneous

The Examiner required amended Drawings which show the cam being located on the fixed leaf and the follower being located on the pivotal leaf, as claimed. The Drawings as

originally submitted show these elements in these locations. In Figures 11 and 12, for example, cam 22 is on fixed leaf 16, and follower 28 is on pivotal leaf 18.

CONCLUSION

For the reasons set forth above, allowance of claims 1, 12, 14, 16, 18 and 19 is respectfully requested.

Attached is an Appendix containing a copy of the appealed claims.

Respectfully Submitted,

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APPENDIX - RULE 41.37(c)(viii)

Claim 1. A lock for overlapping parallel sliding members, comprising:

a hinge member having two leaves;

the two leaves including a fixed leaf permanently secured to one of overlapping sliding members, and a pivotal leaf pivotally moveable between locked and unlocked positions, to permit sliding of said overlapping members in the unlocked position, and, when turned about 90 degrees to the locked position, to abut the face of one of said overlapping members to prevent displacement there between; and

a resistance mechanism for lightly-resisting pivoting of said pivotal leaf against displacement or rotation in the locked position, said resistance mechanism requiring no pre-manipulation of any portion of the lock prior to pivoting movement

wherein the resistance mechanism provides for lightly-resisting pivoting of said pivotal leaf against displacement or rotation in both the locked and unlocked positions;

wherein said resistance mechanism comprises a cam on one of said leaves having at least one flattened lobe, the at least one flattened lobe corresponding to the locked position, and a displaceable follower on the other leaf engaged with the cam for providing light resistance to pivoting relative movement of the leaves when said follower is engaged with said flattened lobe;

wherein the follower has a planar surface engaged with the cam, the planar surface being engageable with the at least one flattened lobe of cam when the pivotal leaf is in the locked position; and

wherein the follower is formed of a deformable material, and the follower is dimensioned

to permit increased elastic deformation thereof by the cam during pivoting relative movement of the leaves.

Claim 12. The device of claim 1 with a central location located in abutting inner longitudinal edges of the leaves, and the cam and follower being located in the central location.

Claim 14. The device of claim 12 with the follower extending from a raised central portion of the pivotal leaf.

Claim 16. The device of claim 1 with the pivotal leaf having an outer longitudinal edge sloped outwardly away from a hinge axis of the leaves and a surface of the sliding member adjacent to pivotal leaf when the pivotal leaf is in the unlocked position.

Claim 18. A lock for overlapping parallel sliding members, comprising:
a hinge member having two leaves;
the two leaves including a fixed leaf permanently secured to one of overlapping sliding members, and a pivotal leaf pivotally moveable between locked and unlocked positions, to permit sliding of said overlapping members in the unlocked position, and, when turned about 90 degrees to the locked position, to abut the face of one of said overlapping members to prevent displacement there between;

a resistance mechanism for lightly-resisting pivoting of said pivotal leaf against displacement or rotation in the locked position, said resistance mechanism requiring no

pre-manipulation of any portion of the lock prior to pivoting movement;

wherein said resistance mechanism comprises a cam on one of said leaves having at least one flattened lobe, the at least one flattened lobe corresponding to the locked position, and a displaceable follower on the other leaf engaged with the cam for providing light resistance to pivoting relative movement of the leaves when said follower is engaged with said flattened lobe;

wherein the follower has a planar surface engaged with the cam, the planar surface being engageable with the at least one flattened lobe of cam when the pivotal leaf is in the locked position;

wherein the cam is located on the fixed leaf and the follower is located on the pivotal leaf;

wherein the follower is formed of a deformable material, and the follower is dimensioned to permit increased elastic deformation thereof by the cam during pivoting relative movement of the leaves;

with the follower being non-deformed when the pivotal leaf is in the locked position;

with the cam and follower being centrally located in abutting inner longitudinal edges of the leaves;

with the follower extending from a raised central portion of the pivotal leaf; and

with the pivotal leaf having an outer longitudinal edge sloped outwardly away from a hinge axis of the leaves and a surface of the sliding member adjacent to pivotal leaf when the pivotal leaf is in the unlocked position.

Claim 19. A lock for overlapping parallel sliding members, comprising:

a hinge member having two leaves;

the two leaves including a fixed leaf permanently secured to one of overlapping sliding members, and a pivotal leaf pivotally moveable between locked and unlocked positions, to permit sliding of said overlapping members in the unlocked position, and, when turned about 90 degrees to the locked position, to abut the face of one of said overlapping members to prevent displacement there between;

a resistance mechanism for lightly-resisting pivoting of said pivotal leaf against displacement or rotation in the locked position, said resistance mechanism requiring no pre-manipulation of any portion of the lock prior to pivoting movement,

wherein the resistance mechanism provides for lightly-resisting pivoting of said pivotal leaf against displacement or rotation in both the locked and unlocked positions;

wherein said resistance mechanism comprises a cam on one of said leaves having at least two flattened lobes, at least one flattened lobe corresponding to the locked position and at least one other flattened lobe corresponding to the unlocked position, and a displaceable follower on the other leaf engaged with the cam for providing light resistance to pivoting relative movement of the leaves when said follower is engaged with either one of said flattened lobes;

wherein the cam is located on the fixed leaf and the follower is located on the pivotal leaf;

wherein the follower is formed of a deformable material, and the follower is dimensioned to permit increased elastic deformation thereof by the cam during pivoting relative movement of the leaves;

with the follower being non-deformed when the pivotal leaf is in the locked and unlocked position;

with the follower extending from a raised central portion of the pivotal leaf; and

with the pivotal leaf having an outer longitudinal edge sloped outwardly away from a hinge axis of the leaves and a surface of the sliding member adjacent to pivotal leaf when the pivotal leaf is in the unlocked position.